

By Senator Horne

6-719-99

See HB

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A bill to be entitled
An act relating to driving under the influence;
amending s. 316.193, F.S.; providing that a
third or subsequent conviction for driving
under the influence is a third-degree felony;
increasing the fines and penalties imposed for
such offense; amending s. 921.0022, F.S.;
conforming provisions in the sentencing
guidelines; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1), (2), and (4) of section
316.193, Florida Statutes, 1998 Supplement, are amended to
read:

316.193 Driving under the influence; penalties.--

(1) A person commits ~~is guilty of~~ the offense of
driving under the influence and is subject to punishment as
provided in subsection (2) if the person is driving or in
actual physical control of a vehicle within this state and:

(a) The person is under the influence of alcoholic
beverages, any chemical substance set forth in s. 877.111, or
any substance controlled under chapter 893, when affected to
the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or
more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or
more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection
(3), or subsection (4), any person who is convicted of a
violation of subsection (1) shall be punished:

- 1 1. By a fine of:
- 2 a. Not less than \$250 or more than \$500 for a first
- 3 conviction.
- 4 b. Not less than \$500 or more than \$1,000 for a second
- 5 conviction; and—
- 6 ~~c. Not less than \$1,000 or more than \$2,500 for a~~
- 7 ~~third conviction; and~~
- 8 2. By imprisonment for:
- 9 a. Not more than 6 months for a first conviction.
- 10 b. Not more than 9 months for a second conviction.
- 11 ~~c. Not more than 12 months for a third conviction.~~
- 12 (b) Any person who is convicted of a third ~~fourth~~ or
- 13 subsequent violation of this section commits ~~is guilty of~~ a
- 14 felony of the third degree, punishable as provided in s.
- 15 775.082, s. 775.083, or s. 775.084; however, the fine imposed
- 16 for such third ~~fourth~~ or subsequent violation may be not less
- 17 than \$2,500 ~~\$1,000~~.
- 18 (3) Any person:
- 19 (a) Who is in violation of subsection (1);
- 20 (b) Who operates a vehicle; and
- 21 (c) Who, by reason of such operation, causes:
- 22 1. Damage to the property or person of another commits
- 23 a misdemeanor of the first degree, punishable as provided in
- 24 s. 775.082 or s. 775.083.
- 25 2. Serious bodily injury to another, as defined in s.
- 26 316.1933, commits a felony of the third degree, punishable as
- 27 provided in s. 775.082, s. 775.083, or s. 775.084.
- 28 3. The death of any human being commits DUI
- 29 manslaughter, and commits:
- 30 a. A felony of the second degree, punishable as
- 31 provided in s. 775.082, s. 775.083, or s. 775.084.

1 b. A felony of the first degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084, if:

3 (I) At the time of the accident, the person knew, or
4 should have known, that the accident occurred; and

5 (II) The person failed to give information and render
6 aid as required by s. 316.062.

7 (4) Any person who is convicted of a violation of
8 subsection (1) and who has a blood-alcohol level or
9 breath-alcohol level of 0.20 or higher, or any person who is
10 convicted of a violation of subsection (1) and who at the time
11 of the offense was accompanied in the vehicle by a person
12 under the age of 18 years, shall be punished:

13 (a) By a fine of:

14 1. Not less than \$500 or more than \$1,000 for a first
15 conviction.

16 2. Not less than \$1,000 or more than \$2,000 for a
17 second conviction.

18 3. Not less than \$3,500 ~~\$2,000~~ or more than \$7,000
19 ~~\$5,000~~ for a third or subsequent conviction.

20 (b) By imprisonment for:

21 1. Not more than 9 months for a first conviction.

22 2. Not more than 12 months for a second conviction.

23 3. ~~Not more than 12 months for a third conviction.~~

24
25 For the purposes of this subsection, any conviction for a
26 violation of s. 327.35, only the instant offense is required
27 to be a violation of subsection (1) by a person who has a
28 blood-alcohol level or breath-alcohol level of 0.20 or higher.

29 Section 2. Paragraph (f) of subsection (3) of section
30 921.0022, Florida Statutes, 1998 Supplement, is amended to
31 read:

1	784.08(2)(b)	2nd	Aggravated assault on a person 65
2			years of age or older.
3	784.081(2)	2nd	Aggravated assault on specified
4			official or employee.
5	784.082(2)	2nd	Aggravated assault by detained
6			person on visitor or other
7			detainee.
8	784.083(2)	2nd	Aggravated assault on code
9			inspector.
10	787.02(2)	3rd	False imprisonment; restraining
11			with purpose other than those in
12			s. 787.01.
13	790.115(2)(d)	2nd	Discharging firearm or weapon on
14			school property.
15	790.161(2)	2nd	Make, possess, or throw
16			destructive device with intent to
17			do bodily harm or damage
18			property.
19	790.164(1)	2nd	False report of deadly explosive
20			or act of arson or violence to
21			state property.
22	790.19	2nd	Shooting or throwing deadly
23			missiles into dwellings, vessels,
24			or vehicles.
25	794.011(8)(a)	3rd	Solicitation of minor to
26			participate in sexual activity by
27			custodial adult.
28	794.05(1)	2nd	Unlawful sexual activity with
29			specified minor.
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1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.13(2)(c)	2nd	Robbery, no firearm or other
10			weapon (strong-arm robbery).
11	817.034(4)(a)1.	1st	Communications fraud, value
12			greater than \$50,000.
13	817.4821(5)	2nd	Possess cloning paraphernalia
14			with intent to create cloned
15			cellular telephones.
16	825.102(1)	3rd	Abuse of an elderly person or
17			disabled adult.
18	825.102(3)(c)	3rd	Neglect of an elderly person or
19			disabled adult.
20	825.1025(3)	3rd	Lewd or lascivious molestation of
21			an elderly person or disabled
22			adult.
23	825.103(2)(c)	3rd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at less than \$20,000.
26	827.03(1)	3rd	Abuse of a child.
27	827.03(3)(c)	3rd	Neglect of a child.
28	827.071(2)&(3)	2nd	Use or induce a child in a sexual
29			performance, or promote or direct
30			such performance.
31	836.05	2nd	Threats; extortion.

1	836.10	2nd	Written threats to kill or do
2			bodily injury.
3	843.12	3rd	Aids or assists person to escape.
4	847.0135(3)	3rd	Solicitation of a child, via a
5			computer service, to commit an
6			unlawful sex act.
7	914.23	2nd	Retaliation against a witness,
8			victim, or informant, with bodily
9			injury.
10	943.0435(6)	3rd	Sex offenders; failure to comply
11			with reporting requirements.
12	944.35(3)(a)2.	3rd	Committing malicious battery upon
13			or inflicting cruel or inhuman
14			treatment on an inmate or
15			offender on community
16			supervision, resulting in great
17			bodily harm.
18	944.40	2nd	Escapes.
19	944.46	3rd	Harboring, concealing, aiding
20			escaped prisoners.
21	944.47(1)(a)5.	2nd	Introduction of contraband
22			(firearm, weapon, or explosive)
23			into correctional facility.
24	951.22(1)	3rd	Intoxicating drug, firearm, or
25			weapon introduced into county
26			facility.

27 Section 3. This act shall take effect October 1, 1999.

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LEGISLATIVE SUMMARY

Provides for a third-degree-felony penalty for a third or subsequent conviction of driving under the influence. Current law prescribes a third-degree-felony penalty for a fourth or subsequent conviction for driving under the influence. Conforms other fines and penalty provisions to the act. (See bill for details.)